

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DANIEL MALDONADO,	:	
	:	
Plaintiff,	:	C.A. No. 07-063 MPT
	:	
v.	:	
	:	
FIRST CORRECTIONAL MEDICAL,	:	
INC., CORRECTIONAL MEDICAL	:	
SERVICES, INC.,	:	
DR. JOSE A ARAMBURO, JR., M.D.,	:	
DR. SITTA GOMBEH-ALIE, M.D.,	:	
STANLEY TAYLOR, and	:	
JOYCE TALLEY,	:	
	:	
Defendants.	:	

**CORRECTIONAL MEDICAL SERVICES, INC. AND DR. ALIE’S  
MOTION FOR LEAVE TO FILE CROSS CLAIMS AND THIRD PARTY COMPLAINT**

Defendants Correctional Medical Services, Inc. (“CMS”) and Dr. Alie (collectively “Movants”), by and through their undersigned counsel of record, hereby move for leave to file cross claims and a third party complaint and states as follows:

1. Plaintiff Daniel Maldonado has filed the above-captioned action against, *inter alia*, CMS and Dr. Alie, alleging violation of constitutional rights. (D.I. 1) Plaintiff also named First Correctional Medical, Inc. as a defendant. (*Id.*)
2. From July 1, 2002 through June 30, 2005, First Correctional Medical (“FCM”) held the contract to provide medical services for inmates in the Delaware prison system through its wholly-owned subsidiary, First Correctional Medical–Delaware, LLC (“FCMDe”) From July 1, 2005 to the present, CMS has held the contract to provide medical services for inmates in the Delaware prison system. The Plaintiff has alleged injuries arising from provision of medical care

beginning in November, 2004 through the date the Complaint was filed, January 27, 2007. (D.I.

1)

3. Because CMS was not responsible for Plaintiff's medical care prior to July 1, 2005, CMS seeks to cross-claim against FCM for contribution and indemnification. Because FCMDDe was not named as a party by Plaintiff, CMS seeks to add FCMDDe as a third party defendant for purposes of contribution and indemnification. Unless CMS's Motion is granted, it may end up carrying costs that should be borne by FCM and/or FCMDDe.

4. As a condition of Dr. Alie's employment with FCM and/or FCMDDe, those entities were obligated to provide defense and indemnification for claims arising from her employment such as those in the above-captioned action. Accordingly, Dr. Alie seeks to add her cross-claim against FCM for defense and indemnification and to add a third party claim against FCMDDe because Plaintiff did not add it as a party. Unless Dr. Alie's Motion is granted, she may end up individually financially liable for any portion of an award or settlement attributable to the period before CMS took over the contract.

5. If this Motion is not granted, FCM and FCMDDe may enjoy improper windfall and unjust enrichment by avoiding financial responsibility and the Movants will end up carrying more than their share of the defense costs and any award. The addition of these claims will not prejudice Plaintiff.

WHEREFORE, for the foregoing reasons, Correctional Medical Services, Inc. and Dr. Alie respectfully request entry of an order granting this Motion and allowing them to file the Cross-claims/Third Party Complaint which is attached hereto as Exhibit "A".

BALICK & BALICK, LLC

/s/ James E. Drnec

James E. Drnec, Esquire (#3789)

711 King Street

Wilmington, Delaware 19801

302.658.4265

Attorneys for Defendants

Correctional Medical Services, Inc. and

Dr. Sitta Gombah-Alie

Date: June 9, 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DANIEL MALDONADO,	:	
	:	
Plaintiff,	:	C.A. No. 07-063 MPT
	:	
v.	:	
	:	
FIRST CORRECTIONAL MEDICAL,	:	
INC., CORRECTIONAL MEDICAL	:	
SERVICES, INC.,	:	
DR. JOSE A ARAMBURO, JR., M.D.,	:	
DR. SITTA GOMBEH-ALIE, M.D.,	:	
STANLEY TAYLOR, and	:	
JOYCE TALLEY,	:	
	:	
Defendants.	:	

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, the Court having considered Correctional Medical Services, Inc. and Dr. Alie's Motion for Leave to File Third Party Complaint, and all opposition thereto, it is hereby ordered that the Motion is GRANTED.

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J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DANIEL MALDONADO,

Plaintiff,

v.

FIRST CORRECTIONAL MEDICAL,  
INC., CORRECTIONAL MEDICAL  
SERVICES, INC.,  
DR. JOSE A ARAMBURO, JR., M.D.,  
DR. SITTA GOMBEH-ALIE, M.D.,  
STANLEY TAYLOR, and  
JOYCE TALLEY,

Defendants.

C.A. No. 07-063 MPT

**CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 7.1.1**

I, James E. Drnec, Esquire, certify that I have made a reasonable effort to reach agreement with opposing counsel on the matters set forth in Correctional Medical Services, Inc. and Dr. Alie's Motion for Leave to File Third Party Complaint.



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James E. Drnec (DE 3789)

# Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DANIEL MALDONADO,	:	
	:	
Plaintiff,	:	C.A. No. 07-063 MPT
	:	
v.	:	
	:	
FIRST CORRECTIONAL MEDICAL,	:	
INC., CORRECTIONAL MEDICAL	:	
SERVICES, INC.,	:	
DR. JOSE A ARAMBURO, JR., M.D.,	:	
DR. SITTA GOMBEH-ALIE, M.D.,	:	
STANLEY TAYLOR, and	:	
JOYCE TALLEY,	:	
	:	
Defendants,	:	
_____	:	
	:	
CORRECTIONAL MEDICAL	:	
SERVICES, INC., and	:	
DR. SITTA GOMBEH-ALIE, M.D.,	:	
	:	
Cross-claim/Third Party Plaintiffs,	:	
	:	
v.	:	
	:	
FIRST CORRECTIONAL MEDICAL,	:	
INC., DR. JOSE A ARAMBURO, JR., M.D.:	:	
and FIRST CORRECTIONAL	:	
MEDICAL—DELAWARE, LLC,	:	
	:	
Third Party Defendants.	:	
_____	:	

**CORRECTIONAL MEDICAL SERVICES, INC.'S AND DR. SITTA GOMBEH-ALIE'S  
CROSSCLAIMS AND THIRD PARTY COMPLAINT**

Defendants Correctional Medical Services, Inc. ("CMS") and Dr. Sitta Gombekh-Alie ("Dr. Alie"), by and through their undersigned counsel of record, hereby crossclaim against First Correctional Medical, Inc. ("FCM") and Dr. Jose A. Aramburo, Jr. ("Dr. Aramburo") and, for

their Third Party Complaint against First Correctional Medical- Delaware, LLC ("FCMDe"), state as follows:

**CROSSCLAIMS FOR CONTRIBUTION AND INDEMNIFICATION**

1. CMS and Dr. Alie deny that they violated Plaintiff's civil rights and deny that they are liable in any measure to the Plaintiff. To the extent that CMS and/or Dr. Alie is adjudged liable to the Plaintiff, then CMS and/or Dr. Alie crossclaim against their co-defendants FCM and Dr. Aramburo on the grounds that their acts or omissions were the primary cause of the Plaintiff's alleged injuries and resulting damage and that CMS and/or Dr. Alie are therefore entitled to indemnification from FCM and Dr. Aramburo.

In the event that CMS and/or Dr. Alie is held primarily liable to the Plaintiff, then the acts or omissions of FCM and/or Dr. Aramburo are one of the proximate causes of the Plaintiff's alleged injuries and CMS and/or Dr. Alie is entitled to contribution for any amount which they may be required to pay to the Plaintiff as a result of FCM and/or Dr. Aramburo's acts or omissions based on the relative degree of fault pursuant to the provisions of Delaware's Uniform Contribution Among Tortfeasor's Act, 10 *Del. C.* § 6301 and 6308.

WHEREFORE, defendants/Third Party Plaintiffs Correctional Medical Services, Inc. and Dr. Sitta Gombeh-Alie respectfully request entry of judgment in their favor and against First Correctional Medical, Inc. and Dr. Aramburo together with costs, fees and such other relief as this Court deems just.

**THIRD PARTY COMPLAINT AGAINST  
FIRST CORRECTIONAL MEDICAL-DELAWARE, LLC**

2. Plaintiff has alleged, *inter alia*, that CMS and/or Dr. Alie violated his civil rights through deliberate indifference to a serious medical need. The Plaintiff's allegations span a time period between November 2004 and the date the Complaint was filed, January 27, 2007.



3. During the period July 1, 2002 through June 30, 2005, FCM held the contract to provide medical service in the Delaware state prison system through its wholly-owned subsidiary and alter-ego, First Correctional Medical-Delaware, LLC ("FCMDe"), a corporation organized pursuant to the laws of the State of Delaware.

4. CMS was not under contract to provide medical services in the Delaware state prison system between July 1, 2002 through June 30, 2005.

5. Dr. Alie's employment agreement with FCM and/or FCMDe provided for defense and indemnification for legal action such as the above-captioned matter.

6. To the extent that CMS is held to be liable to Plaintiff for actions or omissions occurring prior to July 1, 2005, CMS is entitled to contribution and/or indemnification from FCM and/or FCMDe.

7. To the extent that Dr. Alie is charged with and/or held to be liable for actions and/or omissions occurring prior to July 1, 2005, she is entitled to defense and indemnification from FCMDe and/or FCM.

WHEREFORE, defendants/Third Party Plaintiffs Correctional Medical Services, Inc. and Dr. Sitta Gombah-Alie respectfully request entry of judgment in their favor and against Third Party Defendant First Correctional Medical-Delaware, LLC together with costs, fees and such other relief as this Court deems just.

BALICK & BALICK, LLC

/s/ James E. Drnec

James E. Drnec, Esquire (#3789)

711 King Street

Wilmington, Delaware 19801

302.658.4265

Attorneys for Correctional Medical Services, Inc. and  
Dr. Sitta Gombah-Alie

Date: June 9, 2008

**CERTIFICATE OF SERVICE**

I, James Drnec, hereby certify that on the 9<sup>th</sup> day of June 2008, the foregoing Motion for Leave to File Third Party Complaint was filed via CM/ECF and served upon the following:

Jeffrey K. Bartels, Esquire  
401 South Maryland Avenue  
Wilmington, DE 19804

Marc P. Niedzielski, Esquire  
Department of Justice  
820 N. French St.  
Wilmington, DE 19801

/s/ James E. Drnec  
James E. Drnec, Esquire (#3789)